

*Blueprint for Smart Justice*

# The District of Columbia





Blueprint *for* Smart Justice

# The District of Columbia

© 2019 AMERICAN CIVIL LIBERTIES UNION



COVER PHOTO: SHUTTERSTOCK/MOPICE



# Contents

Executive Summary.....	4
The State of the The District of Columbia Incarceration System.....	7
What Is Driving People Into Prison?.....	8
The Current Jail Population .....	9
The Current Prison Population .....	9
Why Do People Stay in Prison for So Long?.....	10
Who Is Incarcerated.....	10
Budget Strains .....	11
Ending Mass Incarceration in The District of Columbia: A Path Forward.....	12
Reducing Admissions.....	12
Reducing Time Served.....	15
A Note On Specialty Courts.....	15
Taking the Lead.....	17
Reducing Racial Disparities.....	18
Reducing Disability Disparities.....	19
Forecaster Chart.....	20
Total Population Impact.....	22
Methodology Overview.....	22

# Executive Summary

Over the past five decades, the United States has dramatically increased its reliance on the criminal justice system as a way to respond to drug addiction, mental illness, poverty and broken schools. As a result, the United States today incarcerates more people, in both absolute numbers and per capita, than any other nation in the world. Millions of lives have been upended, and families torn apart. The mass incarceration crisis has transformed American society, damaged families and communities, and wasted trillions of taxpayer dollars.

We all want to live in safe and healthy communities, and our criminal justice policies should be focused on the most effective approaches to achieving that goal. But the current system has failed us. It's time for the United States to greatly reduce its reliance on incarceration. Instead, it should invest in alternatives to prison and approaches better designed to break the cycle of crime and recidivism as well as help people rebuild their lives.

The ACLU's Campaign for Smart Justice is committed to transforming our nation's criminal justice system and building a new vision of safety and justice. The Campaign is dedicated to cutting the nation's incarcerated population in half and combatting racial disparities in the criminal justice system.

To advance these goals, the Campaign partnered with the Urban Institute to conduct a two-year research project to analyze the kind of changes needed to cut the number of people in prison in each state by half and reduce racial disparities in incarceration. In every state, the Urban Institute identified primary drivers of incarceration and predicted the impact of reducing prison admissions and length of stay on state prison

populations, state budgets and the racial disparity of those imprisoned.

The analysis was eye-opening.

In every state and the District of Columbia, we found that reducing the prison population by itself does little to diminish racial disparities in incarceration – and in some cases would worsen them. In the District of Columbia – where Black adults were imprisoned at 72 times the rate of white adults<sup>1</sup> in 2014 – reducing the number of people imprisoned will not on its own reduce racial disparities within the prison system. These findings confirm for the Campaign that urgent work remains for advocates, policymakers, and communities across the nation to focus on efforts like policing and prosecutorial reform that are specific to combatting these disparities.

The District of Columbia has a uniquely structured system of incarceration that differs from those of the 50 states. Most people who are sentenced to serve time for offenses classified as felonies in the official D.C. Code<sup>2</sup> are imprisoned under the jurisdiction of the Federal Bureau of Prisons, rather than a prison system managed by the District of Columbia itself. People who are sentenced to serve time for misdemeanors, however, are incarcerated locally under the jurisdiction of the D.C. Department of Corrections.<sup>3</sup>

Overall, the number of people imprisoned for D.C. Code offenses has dropped in recent years, with a 30 percent decrease in those serving time in prisons for felonies between 2008 and 2017,<sup>4</sup> and a 35 percent decrease in people incarcerated locally, primarily for misdemeanor offenses, over roughly the same period.<sup>5</sup> As of 2017, 4,415 people were in prison for D.C. Code felonies,<sup>6</sup>

held in over 117 different facilities across 33 states and the District of Columbia.<sup>7</sup> In September 2018, 2,086 people were incarcerated locally, primarily for misdemeanors.<sup>8</sup>

The District's criminal justice system has a broad impact, particularly in Black communities. More than 100,000 people were arrested for a D.C. Code offense between 2008 and 2017,<sup>9</sup> and in 2016 people from the district were incarcerated at a rate 65 percent higher than the national average.<sup>10</sup> In 2014, Black residents of the district made up 45 percent of the adult population, but represented 96 percent of the population serving prison time for D.C. felony violations.<sup>11</sup>

Most admissions to federal prisons for felonies under the D.C. Code in 2014 were people convicted of a nonviolent offense, with the most common being a drug crime, at 28 percent of admissions that year.<sup>12</sup> Also in 2014, 55 percent of the 2,202 admissions to federal prison from the district's criminal justice system were people who were imprisoned for a community supervision revocation.<sup>13</sup> Harsh sentencing enhancements and mandatory minimums require potentially lengthy terms of imprisonment for people who might otherwise be eligible for probation or other alternative programming.

On any given day in 2018, there were an average of 2,070 people incarcerated locally under the jurisdiction of the D.C. Department of Corrections. Many were being held pretrial and had not been convicted; this was true for 57 percent of men and 54 percent of women as of 2017.<sup>14</sup> Nearly two-thirds of those incarcerated by the Department of Corrections are held in the Central Detention Facility,<sup>15</sup> which has a notorious reputation for crumbling infrastructure and unsafe conditions.<sup>16</sup>

So what's the path forward?

The district has made strides in recent years to pass laws and implement policies that move away from a punitive incarceration approach and toward a public-health approach to reducing crime. In 2016, for example, the District of Columbia Council passed the Neighborhood Engagement Achieves Results (NEAR) Act,<sup>17</sup> which prioritizes community-centered violence interruption, trauma-informed care, and access to

housing, health care, and jobs as the most effective ways to address crime. But there is still much more that needs to be done.

Implementation of various provisions of the NEAR Act by the mayor and other district executive agencies has been slow or nonexistent in some cases. The district must provide the resources needed to make the Act meaningful in practice. This would include investments in violence interruption that prevents crime by using de-escalation, mediation, and mentorship to address the root causes of community violence.<sup>18</sup> In addition, the Act created the Office of Violence Prevention and Health Equity (OVPHE), which would perform a number of crucial services, including placing trained personnel in hospital emergency rooms to provide counseling and trauma-informed care to victims of violence. The mayor and executive agencies should ensure that this office is formally established and fully funded as soon as possible.

Further, a significant portion of arrests annually in the district involve non-violent low-level offenses that include drug crimes, sex work, and other nuisance offenses.<sup>19</sup> While not all these arrests result in incarceration, many do, and they all saddle primarily Black and brown people with criminal records and expose them to greater risk of incarceration.<sup>20</sup> Decriminalizing many of these offenses would do much to reduce the number of people being driven into the prison and jail system.

Many key aspects of the district's criminal justice system are under federal rather than local control, limiting the ability of the district's lawmakers to combat mass incarceration on their own. The district must be careful not to cede greater control to the federal government – for example, in February 2019, Mayor Muriel Bowser announced a joint effort with the United States Attorney to move some felony gun crimes into federal rather than the district's superior court.<sup>21</sup> A consequence of this move is that more people will be federally prosecuted, face harsher penalties, and be ineligible for the district's rehabilitative programs. District lawmakers should oppose such proposals, and instead make efforts to regain greater control over the criminal legal system.

Other necessary reforms include efforts to implement restorative justice programs, reduce harsh pretrial detention practices, and expand programs that divert people who struggle with addiction issues from the criminal legal system into treatment – including those who commit violent felonies. For a full list of potential reforms, see the “Reducing Admissions” and “Reducing Time Served” sections below.

If the District of Columbia were to adopt the changes outlined in this Smart Justice 50-State Blueprint’s forecaster chart and achieve a 50 percent reduction in those serving prison time for D.C.’s criminal code felony offenses, 2,723 fewer people would be in prison by 2025, a 50.17 percent decrease.

Ultimately, the answer is up to the district’s voters, policymakers, communities, and criminal justice advocates as they move forward with the urgent work of ending the district’s obsession with mass incarceration.



# The State of the District of Columbia Incarceration System

The District of Columbia has a uniquely structured system of incarceration. Most people sentenced to serve time for offenses classified as felonies in the official D.C. Code<sup>22</sup> are prosecuted by the U.S. Attorney and imprisoned under the jurisdiction of the Federal Bureau of Prisons (FBOP), while people sentenced to serve time for misdemeanors are incarcerated locally under the jurisdiction of the D.C. Department of Corrections (DCDOC).<sup>23</sup> This blueprint focuses primarily on the people who are serving time in prison for D.C. Code felonies.

The number of people in prison for D.C. Code felonies has declined in recent years, with a 30 percent decrease between 2008 and 2017. As of 2017, there were 4,415 people in prison for these offenses.<sup>24</sup> People from D.C. who are under the jurisdiction of the FBOP are incarcerated in over 117 different facilities across 33 states and the District of Columbia.<sup>25</sup>

## AT A GLANCE

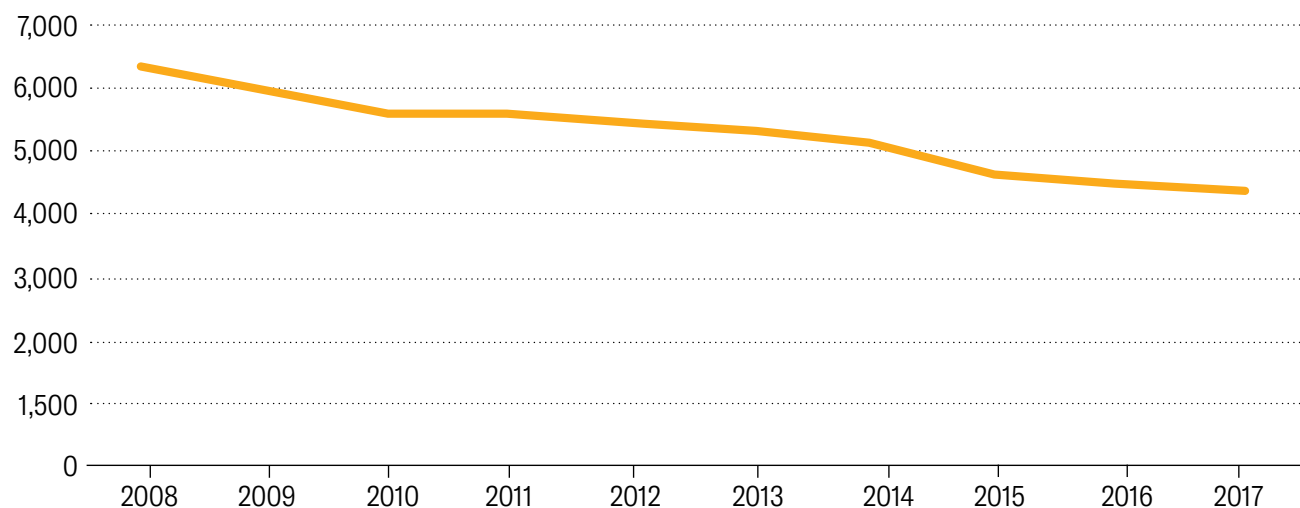
### THE DISTRICT OF COLUMBIA'S INCARCERATION SYSTEM

Over **100,000 people** in the district were arrested between 2008 and 2017.

The number of people imprisoned for D.C. Code felonies decreased by **30 percent** between 2008 and 2017.

People from the district were incarcerated at a rate **65 percent** higher than the national average in 2016.

## DISTRICT OF COLUMBIA IMPRISONMENT TRENDS



Over roughly the same period, the number of people incarcerated locally by the D.C. Department of Corrections, primarily for misdemeanors,<sup>26</sup> also dropped, declining by 35 percent since 2009 to 2,086 people in September 2018.<sup>27</sup>

Despite these declines, the reach of the criminal justice system in D.C. is broad. Over 100,000 people were arrested and approximately 40,000 were convicted of a D.C. Code offense between 2008 and 2017, according to estimates from the D.C. Criminal Justice Coordinating Council, an independent agency that monitors the administration of criminal justice in the district. Altogether, the Council estimated that over 58,000 people were released to the community after spending time in a DCDOC or BOP facility between 2008 and 2017, including over 39,000 who had served a misdemeanor or felony sentence and more than 19,000 additional people who were released without being convicted of an offense.<sup>28</sup> On any given day in 2017, the Council estimated that more than 21,000 people in the District of Columbia had some involvement with the D.C. criminal justice system.<sup>29</sup> In 2016, people from the district were imprisoned at a rate far higher than most other major urban centers across the country.<sup>30</sup>

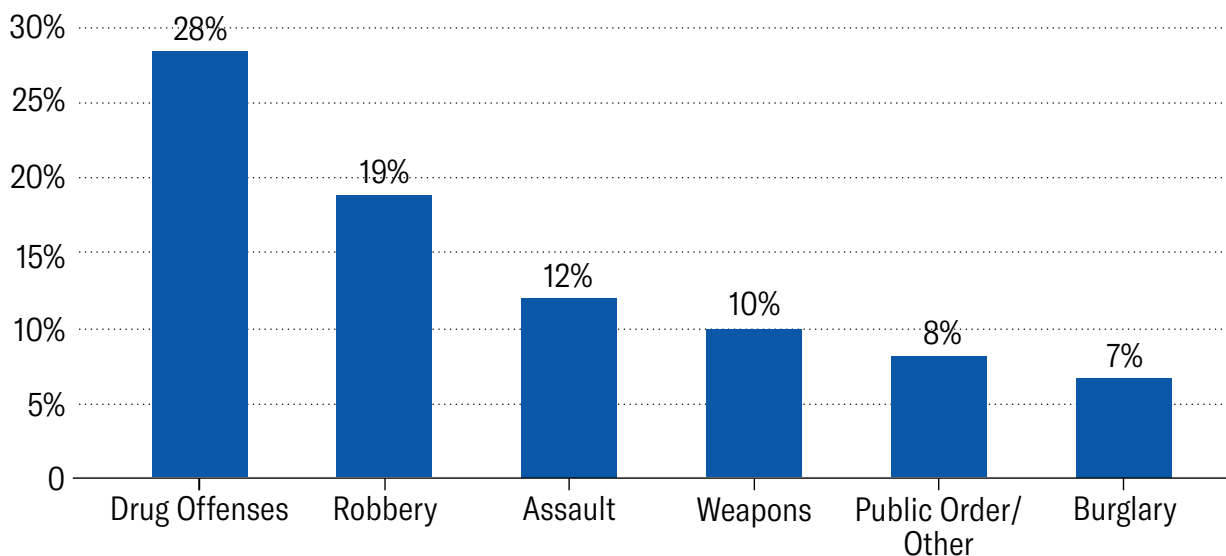
## What Is Driving People Into Prison?

The annual number of admissions to federal prisons<sup>31</sup> for D.C. Code offenses has dropped significantly in recent years, with a 33 percent decline overall between 2005 and 2014. The number of people entering prison for D.C. code felonies every year has decreased for all admissions types, including a 32 percent reduction in admissions for community supervision revocations. In 2014, 55 percent of the 2,202 people admitted were imprisoned for a community supervision revocation.<sup>32</sup>

Most admissions to federal prisons for D.C. Code felonies in 2014 were people convicted of a nonviolent offense,<sup>33</sup> including 28 percent for a drug crime and 13 percent for a property crime. That year, drug offenses were the most common conviction among admissions to prison, followed by robbery (19 percent), assault (12 percent), and weapons offenses (10 percent). Notably, 78 percent of admissions to prison for a drug offense were people who were revoked from community supervision, rather than newly committed from D.C. Superior Court.<sup>34</sup>

The D.C. Code includes harsh sentencing enhancements that can impose rigid sentences on people convicted of certain felonies. For example, people convicted of certain offenses while in possession

## PRISON ADMISSIONS FOR D.C. CODE VIOLATIONS BY TOP OFFENSE TYPES (2014)



of a weapon can receive a mandatory minimum sentence of at least five years for a first offense and at least 10 years for a second offense.<sup>35</sup> The code dictates that people who have any prior felony conviction or who are “addicted to any controlled substance” can be subject to mandatory minimums ranging from one to three years for possessing a firearm.<sup>36</sup> Such laws can require prison sentences for people who might otherwise be eligible for probation or other alternative programs.

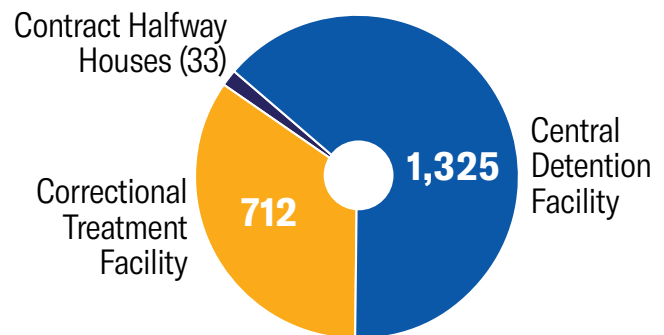
## The Current Jail Population

There were 2,070 people incarcerated locally under the jurisdiction of the D.C. Department of Corrections on average on any given day in 2018, including people held in the Central Detention Facility, the Correctional Treatment Facility, and in contract halfway houses.<sup>37</sup> Because many people are held for short periods of time, the number of admissions to the DCDOC system in a given year is much higher than the number of admissions to prison for D.C. Code felonies. In 2018,<sup>38</sup> there were 11,516 intakes to the DCDOC; 57 percent of men and 70 percent of women released that year spent fewer than 31 days incarcerated. However, some people spend long periods of time in local custody. People released from DCDOC facilities in fiscal year 2018 had been there for over two months (72 days), on average.<sup>39</sup>

Many people in the DCDOC system are being held pretrial and have not been convicted of a crime, including approximately 57 percent of men and 54 percent of women as of 2017.<sup>40</sup> That year, men held pretrial with felony charges spent an average of 7.5 months (225 days) incarcerated, while women held pretrial while facing felony charges spent an average of over three months (105 days) in DCDOC facilities.<sup>41</sup>

Nearly two-thirds (62 percent) of the people incarcerated by the DCDOC are held in the Central Detention Facility,<sup>42</sup> which has received significant attention in recent years for its crumbling infrastructure and unsafe conditions, including extreme heat, vermin, unsanitary kitchens and showers, broken plumbing, mold, and severe roof leaks.<sup>43</sup>

## D.C. DEPARTMENT OF CORRECTIONS AVERAGE DAILY POPULATION (FY 2018)



## The Current Prison Population

Two in five people (43 percent) held in prison with D.C. Code felony convictions in 2014 were serving time for an offense that did not involve violence, including 12 percent for drug offenses and 10 percent for property offenses.<sup>44</sup>

People sentenced to serve prison time for D.C. Code felonies can be sent to serve their time in FBOP facilities across the country. In 2017, they were

### AT A GLANCE

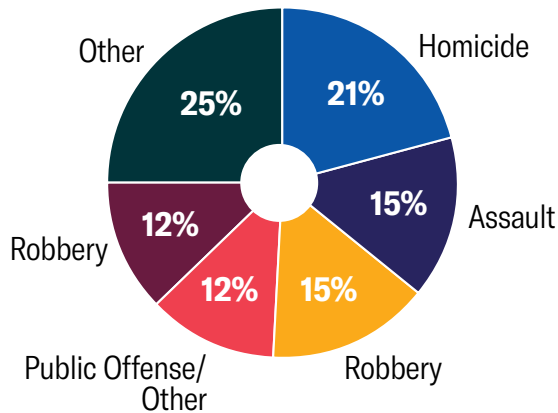
## THE JAIL AND IMPRISONED POPULATIONS AT A GLANCE

On any given day in 2018, an average of **2,070 people** were incarcerated locally under the jurisdiction of the D.C. Department of Corrections.

The federal prisons that hold the most men imprisoned for D.C. Code felonies are in North Carolina, West Virginia, Maryland, and Pennsylvania.

**43 percent** of people imprisoned for D.C. Code felony convictions in 2014 were serving time for a nonviolent offense.

## D.C. CODE PRISON POPULATION BY OFFENSE TYPE (2014)



incarcerated in over 117 different facilities across 33 states and the District of Columbia. That year, the federal prisons holding the most men serving time for D.C. Code felonies were the Rivers Correctional Institution in North Carolina, USP Hazelton in West Virginia, FCI Cumberland in Maryland, and USP Canaan in Pennsylvania. For women serving sentences for D.C. Code felonies that year, the most common federal facility was SFF Hazelton in West Virginia. Other people from the District of Columbia are incarcerated in federal facilities farther away, including in Florida, Minnesota, and Texas.<sup>45</sup> The fact that these facilities are so far from the district can create significant barriers for families who want to visit incarcerated loved ones, and can limit access to programming and reentry planning support.<sup>46</sup>

### Why Do People Stay in Prison for So Long?

The average amount of time that people in prison have served for D.C. Code felonies has risen in recent years. Between 2007 and 2013 alone, the average time served to date increased by 47 percent from 3.6 years to 5.3 years. This increase was particularly pronounced for people serving the longest 10 percent of prison terms, who had spent an average of 81 percent more time in prison in 2013 than in 2007.<sup>47</sup>

#### AT A GLANCE

### LENGTH OF IMPRISONMENT AT A GLANCE

The average amount of time people in prison had served for a D.C. Code felony offense increased by **47 percent** between 2007 and 2013.

People imprisoned for offenses committed after August 2000 must serve at least **85 percent** of their sentence before they can be considered for release.

The District of Columbia limits the amount of time people can earn off their sentence, including for participating in programs and treatment that have been shown to improve reentry outcomes. People serving time for offenses committed after August 2000 have determinate sentences that require them to serve at least 85 percent of their sentence before they are eligible to be considered for release.<sup>48</sup>

### Who Is Incarcerated

**Black Washingtonians:** Incarceration in the District of Columbia has a disproportionate impact on the Black community. In 2014, Black people made up 45 percent of the adult population in the district but 96 percent of the population serving prison time for D.C. Code felony violations. That year, Black adults from the district were imprisoned at 72 times the rate of white adults.<sup>49</sup>

Black people are also vastly overrepresented in the D.C. Department of Corrections population: In 2018, Black people made up about half (45 percent) of the D.C. adult population but nearly 9 in 10 (88 percent) people held by DCDOC that year.<sup>50</sup>

**Female Washingtonians:** In recent years, the number of women serving prison time for D.C. Code felonies has dropped faster than the overall prison

## AT A GLANCE

### DEMOGRAPHICS

Black people made up **96 percent** of the population serving prison time for D.C. Code felonies in 2014.

The number of women serving prison time for D.C. Code felonies decreased by **nearly half** between 2005 and 2014.

People aged 55 and older accounted for more than **1 in 10 people** serving prison time for D.C. code felonies in 2014.

population, decreasing by nearly half (47 percent) between 2005 and 2014. As of 2014, 4 percent of people serving time in federal prison for D.C. Code felonies were women, nearly all of whom (95 percent) were Black.<sup>51</sup> Women serving time for D.C. Code felonies are very likely to serve their time far from home, as the Bureau of Prisons does not have any facilities for women in the District of Columbia or in neighboring states.<sup>52</sup>

**Younger Washingtonians:** More than 1 in 4 people (26 percent) admitted to prison for D.C. Code felonies in 2014 were under the age of 25. At the end of that year, 1 in 7 people (14 percent) in prison for D.C. Code felonies were under 25 years old.<sup>53</sup>

**Older Washingtonians:** Though generally considered to pose a negligible risk to public safety,<sup>54</sup> the number of people serving prison terms for D.C. Code felony violations who were 55 years old or older increased 42 percent between 2005 and 2014. In 2014, people aged 55 and older accounted for more than one in 10 people (12 percent) serving prison time for D.C. Code felonies.<sup>55</sup>

## Budget Strains

The District of Columbia spent about \$158 million on DCDOC corrections expenses in 2017, accounting for about 2 percent of all government general fund

## AT A GLANCE

### CORRECTIONS SPENDING

The District of Columbia's general fund corrections spending has grown **225 percent** since 1986.

**Nearly half** of people released from The District of Columbia prisons in 2014 were reincarcerated within three years of release.

expenditures that year.<sup>56</sup> This figure does not include the expense of imprisoning people serving time for D.C. Code felonies in federal facilities nor the expense of community supervision for people sentenced in District of Columbia courts, both of which are borne by federal taxpayers. The Congressional Budget Office estimates that the savings from lowering the federal prison population by each additional person would average \$13,000 per year between 2019 and 2028.<sup>57</sup>

# Ending Mass Incarceration in the District of Columbia: A Path Forward

Mass incarceration is a result of many systems failing to support our communities. To end it, we must develop policies that better address inadequacies in many arenas, including our education, health care, and economic systems. There are many potential policy changes that can help end the district's mass incarceration crisis, but it will be up to the people and policymakers of the district to decide which changes to pursue. To reach a 50 percent reduction, policy reforms will need to reduce the amount of time people serve in prisons and/or reduce the number of people entering jail and prison in the first place.

## Reducing Admissions

To end mass incarceration, the district must break its overreliance on jails and prisons as a way to hold people accountable for their crimes, and it must invest in evidence-based strategies to prevent crime by addressing its root causes. Evidence indicates that prisons seldom offer adequate solutions to wrongful behavior. In fact, imprisonment can be counterproductive – increasing cycles of harm and violence, while failing to provide rehabilitation for incarcerated people or adequate accountability to the survivors of crime.<sup>58</sup>

The district has in recent years taken some significant steps to move away from an incarceration approach and toward a public health approach to reducing crime. It should build upon these steps through faithful implementation of existing laws, providing needed resources, and adopting additional reforms that can successfully reduce admissions into the system.

In 2016, the District of Columbia Council passed the Neighborhood Engagement Achieves Results (NEAR) Act,<sup>59</sup> an omnibus public safety law that emphasizes accountability and transparency, community-centered violence interruption, trauma-informed care, and access to housing, health care, and jobs as most effective ways to address crime in the district.

What underlies the public-health approach of the NEAR Act is an acknowledgement that the communities most impacted by violent crime are also those most impacted by over-policing and incarceration, and that the outdated “tough on crime” approach of arrests, convictions, and harsh sentencing have failed to make our communities safer and have contributed to the crisis of mass incarceration and the overcriminalization of the district's Black residents in particular.

Since passage of the law, implementation of various provisions by the mayor and executive agencies has been slow or non-existent in some cases. The district should provide the necessary resources to fully implement the NEAR Act, while creating and expanding front-end reforms proven to decrease the number of people entering the criminal legal system.

- **Prevention:** Investments in community-centered violence interruption is one way in which the district can make significant progress in reducing crime and incarceration simultaneously. The district currently has two main violence interruption programs: the Office of Neighborhood Safety and Engagement (ONSE)<sup>60</sup> and the “Cure the Streets” program,<sup>61</sup> the latter of which operates out of the District of Columbia Office of Attorney General (DCOAG)

and is based on the Cure Violence model. These programs prevent crime by using de-escalation, mediation, and mentorship to address the root causes of community violence.<sup>62</sup> Both programs are at their beginning stages of implementation and will require both meaningful investments and oversight to achieve measurable outcomes. The District of Columbia Council should expand these programs and implement best practices learned from other jurisdictions to ensure their success.

The NEAR Act<sup>63</sup> also created the Office of Violence Prevention and Health Equity (OVPHE),<sup>64</sup> charged with developing and implementing a public health strategy to combat violence through trauma-informed care and family-based therapy, mediation, and de-escalation techniques. One of the office's critical tasks is to place trained personnel in every hospital emergency room to respond to victims of violence and their families immediately and to provide counseling, mental health treatment, mediation, and trauma-informed care to prevent further violence and trauma. However, the office does not yet exist in any formalized way. The mayor and executive agencies should immediately establish an OVPHE office and operate it in accordance with existing law.

- **Decriminalization:** A significant number of people are arrested annually in the district for non-violent low-level offenses.<sup>65</sup> While some of these arrests do not directly lead to incarceration, many do, and they all saddle primarily Black and brown people with criminal records and expose them to greater risk of incarceration.<sup>66</sup> Though the district does not retain full control over its criminal legal system, it exercises full control over the D.C. Code and which behaviors are criminalized. The District of Columbia Council should decriminalize low-level offenses – including drug offenses, sex-work, and nuisance offenses – that can be better addressed through public-health interventions.
- **Alternatives to incarceration:** Several types of alternative-to-incarceration programs have

shown great success in reducing both violent and nonviolent criminal activity. Programs offering support services such as substance use treatment, mental health care, employment, housing, health care, and vocational training – often with a community service component – have significantly reduced recidivism rates for participants.<sup>67</sup>

- **Pre-arrest diversion:** In passing the NEAR Act,<sup>68</sup> the District of Columbia Council expressed an intention to address the root causes of crime without resorting to incarceration. Pre-arrest diversion programs are one way to accomplish this by diverting individuals to community-based, harm-reduction interventions to address unmet behavioral and physical health needs instead of arrest, prosecution, and incarceration. Done correctly and informed by the community, pre-arrest diversion programs like the Law Enforcement Assisted Diversion program<sup>69</sup> can help address the needs of community members in a long-lasting way and also significantly reduce justice system costs. The district launched a pre-arrest diversion pilot program in partnership with the Department of Behavioral Health and the local police department in April 2018, but the effectiveness of the district's program remains uncertain.<sup>70</sup> Launching effective and evidence-based diversion programs must be inclusive of community leaders and direct services organizations. Finally, there must be transparency around who is diverted, the alleged offense, and whether participants successfully completed the program.
- **Expanded treatment – mental health:** Mental health diversion is an effective way to redirect people with disabilities out of the criminal legal system and into supportive community treatment. Diversion programs have been shown to be effective for people charged with both nonviolent and violent offenses.<sup>71</sup> When implemented effectively, diversion reduces arrests, encourages voluntary treatment in the community, and saves money.<sup>72</sup>

Effective diversion programs coordinate with community services that provide a wide range of substantial, quality wraparound treatment and support for people with disabilities to access housing, employment, and intensive, individualized supports in the community. After an initial investment in community supports, diversion programs have the potential of saving jurisdictions large amounts of money.

- **Expanded treatment – addiction:** Substance use disorders are often underlying drivers of a substantial number of crimes, including and especially more serious offenses like burglaries, robberies, and assaults. Addressing substance abuse through treatment rather than incarceration can more effectively reduce crime.<sup>73</sup> Most diversion programs in the district focus on non-violent felony or misdemeanor offenses.<sup>74</sup> Only Drug Court allows some cases of simple assault to be diverted.<sup>75</sup> The Council should expand the eligibility criteria, explicitly including violent felonies such as assault and robbery.
- **Improve pretrial practices:** District of Columbia law requires that a person to be released on personal recognizance or on an unsecured appearance bond, excluding those charged with certain serious violent felonies, unless the court determines the release would not reasonably assure court appearance or public safety.<sup>76</sup> It also prohibits preventative detention and calls for courts to impose the least restrictive conditions. Courts should tailor release conditions to each individual case, and should avoid setting conditions that create financial burdens or impose burdens on daily life. For instance, requiring regular in-person reporting has monetary costs and impacts a person’s ability to maintain employment.
- **Restorative justice:** For crimes involving violence, restorative justice programs – which are designed to hold responsible people accountable and support those who were harmed – can be particularly promising and

---

“Merely reducing sentence lengths, by itself, does not disturb the basic architecture of the New Jim Crow. So long as large numbers of African Americans continue to be arrested and labeled drug criminals, they will continue to be relegated to a permanent second-class status upon their release, no matter how much (or how little) time they spend behind bars. The system of mass incarceration is based on the prison label, not prison time.”<sup>109</sup>

– From *The New Jim Crow*, Michelle Alexander

---

can often generate far better results than imprisonment. When they are rigorous and well-implemented, these processes have not only been demonstrated to reduce recidivism for defendants,<sup>77</sup> but they have also been shown to decrease symptoms of posttraumatic stress in victims of crime.<sup>78</sup> District leaders, prosecutors and judges who embrace these solutions can fulfill their responsibilities to public safety and to supporting victims in their healing. Lawmakers can explore such interventions at multiple phases in the system, whether through decriminalization, or alternatives to arrest, charges, and incarceration.

- **Prosecutorial reform:** Prosecutors are the most powerful actors in the criminal justice system with the ability to deprive individuals of life, liberty, and property. The initial decisions of whether to charge someone with crimes and if so, what and how many, have a major impact that person’s experience with the system, including the amount of time that person may eventually serve. In the district, adult felony cases and some serious misdemeanors fall under the jurisdiction of the United States Attorney.<sup>79</sup> This structure has resulted in an overly punitive system lacking transparency and accountability, and one that makes it nearly



impossible for district residents to engage officials that exercise unchecked power and make decisions that impact their daily lives. An essential step in removing the authority of the federal government in local criminal justice matters is establishing statehood for the District of Columbia.

- **Expanding judicial discretion:** Lawmakers can limit the circumstances in which a judge is required to impose a prison sentence instead of community supervision, especially for drug offenses and in situations when the mandatory prison sentence is triggered by a prior felony. Judges must also have a variety of options at their disposal besides imprisonment, allowing them to require treatment, mental health care, restorative justice, or other evidence-based alternatives to incarceration. These programs should be available to the court in all or most cases, regardless of the severity of the offense or a person’s prior criminal history. The court, not the legislature, should be in a position to decide whether such an option is appropriate in individual cases.

## Reducing Time Served

Reducing the amount of time people serve, even by just a few months, can lead to thousands of fewer people imprisoned because of D.C. Code violations. Here’s how:

- **Regain and retain local control:** With lack of local control over the prosecution of most criminal cases, the district’s efforts to combat mass incarceration are limited. As such, district leaders must be careful not to cede greater control to the federal government in an effort to address crime. In February 2019, Mayor Bowser announced a joint effort with the United States Attorney to move felony-in-possession gun crimes to federal court from District of Columbia superior court, which means that defendants will be prosecuted under federal law rather than District of Columbia law.<sup>80</sup> As a result, people will face harsher penalties, and will not have the same opportunities for

rehabilitation and reentry as would those convicted of D.C. Code violations. The mayor should rescind this proposal, in line with the district Council’s resolution in opposition to this change.<sup>81</sup> Both regaining and retaining local control over the criminal legal system is a critical component of achieving decarceration in the district.

- **Sentencing reform - general:** The district Council can amend the district’s criminal code to reduce sentencing ranges, including

## A NOTE ON SPECIALTY COURTS

Many jurisdictions assign some people to “specialty courts” such as mental health, behavioral, veterans, and drug courts. The ACLU has concerns about the growing use of these courts. They may violate due process rights, including the rights to notice, hearing, and counsel, and may needlessly subject people with disabilities to criminal justice control. And they require significant resources that would be better spent providing upfront services in the community.

Where established, participation in these courts must be voluntary and not require a guilty plea. Specialty court providers must be disability-competent and informed in public health, addiction, and treatment. People in these courts must have access to counsel, and supervision should not last beyond the length of any sentence that would have been imposed for the underlying charge. Participants should be allowed to quit the program and either take a plea agreement or stand trial, protected by all due process rights, at any time. All programs must be tailored to meet individual needs, including having specialized, evidence-based options for people with dual diagnoses (mental health and substance use disorders). Finally, the response to lapses or non-compliance should be enhanced case management, not incarceration.

and especially for drug offenses, burglary and other property offenses, robbery, public order offenses, and assault. The Council should abolish laws that require judges to sentence people to mandatory minimum sentences for specific offenses. Such laws tie the hands of judges and have perpetuated an unfair system that has disproportionately impacted communities of color. Examples of mandatory minimums that should be repealed include the seven-year mandatory minimum sentence for carjacking, and the 15-year mandatory minimum for armed carjacking. The Council should also increase opportunities for people to have their sentences reviewed and reduced.<sup>82</sup>

- **Sentencing reform – enhancements:** The district Council can also limit the circumstances and the severity of the prior felony sentencing law, in which the presence of even a single prior felony can substantially increase the sentencing range and delay initial parole eligibility. Multiple prior felonies trigger even greater enhancements to both the sentencing range and initial parole eligibility. The Council should repeal the law that requires the judge to sentence a defendant to a minimum of 15 years if that person has three prior violent felony or gun crimes. It should ensure the sentencing judge has access to the individual’s history and is able to sentence that person based on the circumstances involved.
- **Parole reform:** The D.C. Revitalization Act of 1997<sup>83</sup> abolished the District of Columbia Board of Parole, transferring decision-making authority for parole grants,<sup>84</sup> conditions enforcement and revocations to the federal U.S. Parole Commission (USPC).<sup>85</sup> Although the president appoints its members, less than 25 percent of the USPC caseload is federal.<sup>86</sup> Of the current population held at the federal Bureau of Prisons, more than one-third are being held for parole or supervised released violations.<sup>87</sup> District leadership should work with the Department of Justice to transfer control over parole from the USPC back to the district.<sup>88</sup>

In decisions on parole granting, the nature and circumstances of the original offense are too heavily weighted. The parole commission or board should pass a regulation that prioritizes whether the person has been rehabilitated and strictly prohibits denial on the basis of the original offense. If the commission or board denies parole, it should be required to prove beyond a reasonable doubt that the individual poses a clear and present danger to society.

Additionally, the parole board should remove mandatory minimum supervision terms<sup>89</sup> and instead determine the length and conditions of supervision conditions on the individual’s risk and needs.

- **Reducing parole revocations:** The USPC uses its power to increase both prison admissions and length of stay in response to supervision violations. This is evidenced by a significant increase in the amount of time a person spends incarcerated for parole revocations.<sup>90</sup> It created a classification system independently, absent input from local government or the community in defining what constitutes parole violations. The majority of people accused of committing a technical violation have committed minor infractions such as missing an appointment with a supervision officer, rather than committing a new offense.<sup>91</sup> The district Council should pass legislation to prohibit incarceration as a response for technical violations. If it does not eliminate incarceration for technical violations entirely, it should greatly limit the amount of time a person can be sentenced for technical violations by creating a system of graduated sanctions that focuses on proportionality.<sup>92</sup>

The Council should also pass legislation establishing a right to counsel at revocation hearings and placing a cap on the number of days a person accused of a supervision violation may be detained without a hearing, unless it can be proved beyond a reasonable doubt that the individual is a threat to public safety.

Parole revocations for technical violations are often due to physical or mental disabilities that many parolees have. Parole and probation officers are required to provide reasonable accommodations so that parolees with disabilities have an equal opportunity to comply with the requirements of parole. Proper training of parole officers and greater awareness of accommodation requirements could reduce the number of technical violations significantly.

- **Earned time/earned credit reform:** The district can also consider expanding the availability of earned credits against a prison sentence through participation in educational, vocational, and other opportunities. The Bureau of Prisons should pass regulations clarifying its earned time allowance, increasing the number of days a person may earn off of their sentence annually, and expanding the eligibility to all incarcerated people. The district should

implement a day-for-day incentive for successful completion of programs offered.<sup>93</sup>

- **Compassionate release:** The U.S. Parole Commission should expand access to compassionate release from prison. The prison population is rapidly aging, in large part due to mandatory minimums and curtailed opportunities for parole. Keeping aging and seriously injured or ill people incarcerated significantly taxes prison resources. Studies have shown that incarcerating an older person aged 50 and above can be double the cost of incarcerating a younger person.<sup>94</sup> Moreover, keeping older people behind bars does not improve public safety since studies have clearly shown that the propensity to commit crime significantly declines with age.<sup>95</sup> There is also clear evidence showing that older persons have much lower rates of recidivism than their younger counterparts.<sup>96</sup> The Parole Commission

## TAKING THE LEAD

**Prosecutors:** They make decisions on when to prosecute, what charges to bring, and which plea deals to offer and accept. They can decide to divert people to treatment programs (for example, drug or mental health programs) rather than send them to prison. And they can decide not to charge enhancements that greatly increase the length of sentences.

**District lawmakers:** They decide which offenses to criminalize, what penalties to include, how long sentences can be, and when to take away discretion from judges. They can change criminal laws to remove prison as an option when better alternatives exist, and they can also fund the creation of new alternatives, including diversion programs that provide supported housing, treatment, and vocational training. And they can decide to sufficiently fund mental health and substance abuse treatment so it is available for people who need it before they encounter the criminal legal system.

**Parole boards:** They decide when to allow people to leave prison. If the parole board is trained to consider and accommodate disability issues, they may recognize and release more people who have disciplinary issues in their records that are due to a lack of accommodations for their disabilities.

**Judges:** They often have discretion over pretrial conditions imposed on defendants, which can make a difference. For example, individuals who are jailed while awaiting trial are more likely to plead guilty and accept longer prison sentences than people who are not held in jail pretrial. Judges can also have discretion in sentencing and should consider alternatives to incarceration when possible.

should amend the law to lower the eligibility age for geriatric parole from 65 to 50 and remove the requirement that a person be within six months of death to qualify for medical parole.<sup>97</sup>

## Reducing Racial Disparities

Reducing the number of people who are incarcerated in the District of Columbia will not on its own significantly reduce racial disparities in the system.

People of color (especially Black and Latino people) are at a higher risk of becoming involved in the justice system, including living under heightened police surveillance and being at higher risk for arrest. This imbalance cannot be accounted for by disparate involvement in illegal activity, and it grows at each stage in the justice system, beginning with initial law enforcement contact and increasing at subsequent stages, such as pretrial detention, conviction, sentencing, and post-release opportunity.<sup>98</sup> Focusing on only one of the factors that drives racial disparity does not address issues across the whole system.

Racial disparity is so ingrained in the system that it cannot be mitigated by solely reducing the scale of mass incarceration. Shrinking the prison population across the board will likely result in lowering imprisonment rates for all racial and ethnic populations, but it will not address comparative disproportionality across populations. For example, focusing on reductions to prison admissions and length of stay in prison is critically important, but those reforms do not address the policies and practices among police, prosecutors, and judges that contribute greatly to the racial disparities that plague the prison system.

New Jersey, for example, is often heralded as one of the most successful examples of reversing mass incarceration, passing justice reforms that led to a 26 percent decline in the state prison population between 1999 and 2012.<sup>99</sup> However, the state did not target racial disparities in incarceration and, in 2014, Black people in New Jersey were still more than 12 times as likely to be imprisoned as white people — the highest disparity of any state in the nation.<sup>100</sup>

Ending mass incarceration is critical to eliminating racial disparities, but insufficient without companion efforts that take aim at other drivers of racial inequities outside of the criminal justice system. Reductions in disparate imprisonment rates require implementing explicit racial justice strategies.

Some examples include:

- Ending over-policing in communities of color
- Evaluating prosecutors' charging and plea-bargaining practices to identify and eliminate bias
- Investing in diversion/alternatives to detention in communities of color
- Reducing the use of pretrial detention and eliminating wealth-based incarceration
- Ending sentencing enhancements based on location (drug-free school zones)
- Reducing exposure to reincarceration due to revocations from supervision
- Requiring racial impact statements before any new criminal law or regulation is passed and requiring legislation to proactively rectify any potential disparities that may result with new laws or rules
- Eliminating discriminatory gang sentencing enhancements that disproportionately target people of color
- Addressing any potential racial bias in risk assessment instruments used to assist decision-making in the criminal justice system
- Encouraging judges to use their power to dismiss cases that originate with school officials or on school grounds, when the matter may be adequately addressed through school disciplinary or regulatory processes to avoid incarcerating children during their most formative years
- Eliminating fines and fees, which effectively criminalize poverty

- Shifting funding from law enforcement and corrections to community organizations, job creation, schools, drug and mental health treatment, and other social service providers

## Reducing Disability Disparities

The rate of people with disabilities in the U.S. criminal system is two to six times that of the general population.<sup>101</sup> In particular, people with psychiatric disabilities are dramatically overrepresented in jails and prisons across the country.<sup>102</sup>

People showing signs of mental illness are twice as likely to be arrested as people without mental illness for the same behavior.<sup>103</sup>

People with mental illness are sentenced to prison terms that are, on average, 12 percent longer than other people in prison.<sup>104</sup>

People with mental illness stay in prison longer because they frequently face disciplinary action from conduct that arises due to their illness — such as attempted suicide — and they seldom qualify for early release because they are not able to participate in rehabilitative programming, such as educational or vocational classes.<sup>105</sup>

Furthermore, sentencing reforms appear to leave people in prison with psychiatric disabilities behind.

Screening tools to evaluate psychiatric disabilities vary by state and jurisdiction, but the most reliable data indicates that more than half of jail populations and close to half of prison populations have mental health disabilities.<sup>106</sup> The fact that people with mental health disabilities are arrested more frequently, stay incarcerated longer, and return to prisons faster is not due to any inherent criminality related to psychiatric disabilities. It arises in part because of the lack of accessible and appropriate mental health treatment in the community; in part because of a perception of dangerousness by police, prosecutors and judges; and in part because prison staff and probation officers fail to recognize and accommodate disability.

Many people of color in jails and prisons are also people with disabilities, and efforts to reduce racial disparities must go hand in hand with efforts to reduce disability disparities.<sup>107</sup> Not surprisingly, many of the strategies to reduce disability disparities are similar to approaches that reduce racial disparities. Some examples include:

Investing in pre-arrest diversion:

- Creating behavioral health centers, run by state departments of health, as alternatives to jails, or emergency rooms for people experiencing mental health crises or addiction issues.
- Training dispatchers and police to divert people with mental health issues who commit low-level nuisance crimes to these behavioral health centers. Jurisdictions that have followed this approach have significantly reduced their jail populations.<sup>108</sup>
- Ending arrest and incarceration for low-level public order charges, such as being drunk in public, urinating in public, loitering, trespassing, vandalism, and sleeping on the street. If needed, refer people who commit these crimes to behavioral health centers.
- Requiring prosecutors to offer diversion for people with mental health and substance abuse disabilities who are charged with low-level crimes
- Evaluating prosecutors' charging and plea-bargaining practices to identify and eliminate disability bias
- Requiring prosecutors' offices be transparent in their hiring practices, charging decisions, and plea deals
- Investing in diversion programs and alternatives to detention designed for people with disabilities, including programs that provide supportive housing, Assertive Community Treatment, wraparound services, and mental health supports
- Reducing the use of pretrial detention while increasing reminders of court dates and other

supports to ensure compliance with pretrial requirements

- Reducing reincarceration due to parole or probation revocations through intensive case management, disability-competent training for officers on alternatives to incarceration and reasonable modifications to requirements of supervision, and no return to incarceration for first and second technical violations
- Addressing bias against mental disabilities in risk assessment instruments used to assist decision-making in the criminal justice system
- Shifting funding away from law enforcement and corrections into supportive housing, intensive case management, schools, drug and mental health treatment, community organizations, job creation, and other social service providers

## Forecaster Chart

There are many pathways to cutting the D.C. imprisoned population by 50 percent. To help end mass incarceration, communities and policymakers will need to determine the optimal strategy to do so. This table presents one potential matrix of reductions that can contribute to making a 50 percent reduction in the number of people serving prison time for offenses committed under D.C.'s criminal code by 2025. The reductions in admissions and length of stay for each offense category were selected based on potential to reduce the prison population, as well as other factors. To chart your own path to reducing mass incarceration for the District of Columbia, visit the interactive online tool at <https://urbn.is/ppf>.

## CUTTING BY 50%: PROJECTED REFORM IMPACTS ON POPULATION, DISPARITIES, AND BUDGET

Impact Compared to 2025 Baseline*			
Offense category**	Policy outcome	Prison population impact	Impact on racial and ethnic makeup of prison population***
<b>Assault</b>	<ul style="list-style-type: none"> <li>• Reduce average time served by 60% (from 3.08 to 1.23 years)</li> <li>• Institute alternatives that reduce admissions by 60% (162 fewer people admitted)</li> </ul>	12.65% reduction (686 fewer people)	White: 0.3% increase Black: No change Hispanic/Latino: 0.2% increase Asian: 24.8% decrease
<b>Robbery</b>	<ul style="list-style-type: none"> <li>• Reduce average time served by 60% (from 1.74 to 0.70 years)</li> <li>• Institute alternatives that reduce admissions by 50% (229 fewer people admitted)</li> </ul>	11.75% reduction (638 fewer people)	White: 6.6% increase Black: 0.2% decrease Hispanic/Latino: 1.7% increase Asian: 13.3% increase
<b>Public order offenses****</b>	<ul style="list-style-type: none"> <li>• Reduce average time served by 60% (from 3.69 to 1.48 years)</li> <li>• Institute alternatives that reduce admissions by 70% (99 fewer people admitted)</li> </ul>	8.51% reduction (462 fewer people)	White: 2.7% increase Black: 0.2% decrease Hispanic/Latino: 4.3% increase Asian: 0.9% decrease

Impact Compared to 2025 Baseline*			
Offense category**	Policy outcome	Prison population impact	Impact on racial and ethnic makeup of prison population***
<b>Drug offenses</b>	<ul style="list-style-type: none"> <li>Reduce average time served for all drug offenses by 70% (from 0.93 to 0.28 years)</li> <li>Institute alternatives that reduce admissions for all drug offenses by 80% (368 fewer people admitted)</li> </ul>	7.44% reduction (404 fewer people)	White: 3.2% increase Black: 0.2% decrease Hispanic/Latino: 4.9% increase Asian: 8.0% increase
<b>Burglary</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 60% (from 1.78 to 0.71 years)</li> <li>Institute alternatives that reduce admissions by 60% (98 fewer people admitted)</li> </ul>	4.49% reduction (244 fewer people)	White: 0.4% decrease Black: No change Hispanic/Latino: 1.2% increase Asian: 4.7% increase
<b>Weapons offenses****</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 70% (from 1.56 to 0.47 years)</li> </ul>	4.17% reduction (226 fewer people)	White: 2.5% increase Black: 0.1% decrease Hispanic/Latino: 2.3% increase Asian: 4.3% increase
<b>Theft</b>	<ul style="list-style-type: none"> <li>Reduce average time served by 60% (from 1.81 to 0.72 years)</li> <li>Institute alternatives that reduce admissions by 60% (25 fewer people admitted)</li> </ul>	1.17% reduction (63 fewer people)	White: 0.9% decrease Black: No change Hispanic/Latino: 0.7% increase Asian: 8.6% decrease

\* The baseline refers to the projected imprisoned population based on historical trends, assuming that no significant policy or practice changes are made.

\*\* The projections in this table are based on the offense that carries the longest sentence for any given prison term. People serving prison terms may be convicted of multiple offenses in addition to this primary offense, but this model categorizes the total prison term according to the primary offense only.

\*\*\* This column represents the percent change in the share of the imprisoned population made up by each racial/ethnic group. It compares the proportion of the population made up by a group in the 2025 baseline imprisoned population to the proportion of the population made up by that group when the reform scenario is applied. We then calculate the percent change between those two proportions. Racial and ethnic disproportionality is traditionally measured by comparing the number of people in prison – of a certain race – to the number of people in the state’s general population of that same race. For example, nationally, Black people make up 13 percent of the population, while white people make up 77 percent. Meanwhile, 35 percent of people in state or federal prison are Black, compared to 34 percent who are white. While the proportion of people in prison who are Black or white is equal, Black people are incarcerated at nearly three times their representation in the general population. This is evident in Washington, D.C., where Black people make up 96 percent of the people serving prison terms for D.C. Code violations, but constitute only 45 percent of the city’s total adult population.

\*\*\*\* Some public order offenses include drunk or disorderly conduct, escape from custody, obstruction of law enforcement, court offenses, failure to comply with sex offense registration requirements, prostitution, and stalking, as well as other uncategorized offenses.

\*\*\*\*\* Some weapons offenses include unlawful possession, sale, or use of a firearm or other type of weapon (e.g., explosive device).

## Total Population Impact

If Washington, D.C. were to implement reforms leading to the changes above, 2,723 fewer people would be in prison by 2025, a 50.17 percent decrease.

## Methodology Overview

This analysis uses prison term record data from the National Corrections Reporting Program to estimate the impact of different policy outcomes on the number of people who serve prison time for D.C. Code violations, and the racial and ethnic representation in this population. First, trends in admissions and exit rates for each offense category in recent years are analyzed and projected out to estimate a baseline imprisoned population projection through 2025, assuming recent trends will continue. Then, a mathematical model is used to estimate how various offense-specific reform scenarios (for example, a 10 percent reduction in admissions for drug possession or a 15 percent reduction in length of stay for robbery) would change the 2025 baseline projected imprisoned population. The model allows for reform scenarios to include changes to the number of people admitted to prison and/or the average length of time served for specific offenses. The model then estimates the effect that these changes would have by 2025 on the number of people serving prison time for D.C. Code violations and the racial and ethnic makeup of this population. The analysis assumes that the changes outlined will occur incrementally and be fully realized by 2025.

All results are measured in terms of how outcomes under the reform scenario differ from the baseline projection for 2025. Estimates of the number of people serving prison time for D.C. Code violations are measured as the difference between the 2025 prison population under the baseline scenario and the forecasted population in that year with the specified changes applied. Impacts on the racial and ethnic makeup of the 2025 imprisoned population are measured by comparing the share of the imprisoned population made up by a certain racial or ethnic group in the 2025 baseline population to that same statistic under the reform scenario and calculating the percent change between these two proportions.



# Endnotes

- 1 Urban Institute analysis of: Census Bureau, 2014 Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States; National Corrections Reporting Program.
- 2 A D.C. Code felony is an offense classified as a felony in the District of Columbia's Official Code.
- 3 Before 1997, all people convicted of D.C. Code violations and sentenced to serve time were incarcerated under D.C. jurisdiction. The National Capital Revitalization and Self-Government Improvement Act of 1997 shifted responsibility for people convicted of D.C. Code felonies to the Federal Bureau of Prisons. See Federal Bureau of Prisons, "Inmate Legal Matters" webpage: [https://www.bop.gov/inmates/custody\\_and\\_care/legal\\_matters.jsp](https://www.bop.gov/inmates/custody_and_care/legal_matters.jsp).
- 4 Criminal Justice Coordinating Council, *Ten-Year Estimate of Justice-Involved Individuals in the District of Columbia* (September 2018): <https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/publication/attachments/Ten-Year%20Estimate%20of%20Justice-Involved%20Individuals.pdf>
- 5 D.C. Department of Corrections Population Statistics "Average Daily Population" series. Figures represent fiscal years. This number includes some people who are serving time for felonies and are under the jurisdiction of the federal Bureau of Prisons but are participating in a program run at the DCDOCs local facility, as well as some people being held from the U.S. Marshall Service in Greenbelt
- 6 Criminal Justice Coordinating Council, *Ten-Year Estimate of Justice-Involved Individuals in the District of Columbia* (September 2018): <https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/publication/attachments/Ten-Year%20Estimate%20of%20Justice-Involved%20Individuals.pdf>
- 7 Corrections Information Council, 2017 Annual Report: <https://cic.dc.gov/sites/default/files/dc/sites/cic/publication/attachments/2017%20Annual%20Report%20REVISED%201.11.18.pdf>. Some people convicted of D.C. Code felonies who are under the jurisdiction of the federal Bureau of Prisons are held in the D.C. Central Treatment Facility under an inter-governmental agreement. Source: [https://cic.dc.gov/sites/default/files/dc/sites/cic/page\\_content/attachments/CIC%20Testimony%20on%20Roundtable%20on%20DOC%202.15.17%20FINAL.pdf](https://cic.dc.gov/sites/default/files/dc/sites/cic/page_content/attachments/CIC%20Testimony%20on%20Roundtable%20on%20DOC%202.15.17%20FINAL.pdf)
- 8 D.C. Department of Corrections Population Statistics "Average Daily Population" series. Figures represent fiscal years.
- 9 Criminal Justice Coordinating Council, *One-Day Estimate of Justice System-Involved Individuals Within the District of Columbia* (2017): <https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/publication/attachments/One%20Day%20Count%20Justice%20Involved%202017%20Infographic.pdf> Note: this figure excludes individuals who have been sentenced to prison by the U.S. District Court for violating federal laws. Additionally, this is a rough estimate that is based on a combination of average daily population and one-day count figures, which are not directly comparable.
- 10 Prison Policy Initiative, *States of Incarceration: The Global Context 2018* (2018): <https://www.prisonpolicy.org/graphs/NATO2018/DC.html>
- 11 Urban Institute analysis of Census Bureau, 2014 Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States; National Corrections Reporting Program.
- 12 National Corrections Reporting Program.
- 13 National Corrections Reporting Program.
- 14 D.C. Department of Corrections, PREA Report (2017): <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/General%20Counsel%20updates%20accepted%20and%20finalized%20PREA%20ANNUAL%20REPORT%202017%2028003%29.pdf>
- 15 Washington Lawyers Committee, *D.C. Prisoners: Conditions of Confinement in the District of Columbia* (2015): [http://www.washlaw.org/pdf/conditions\\_of\\_confinement\\_report.PDF](http://www.washlaw.org/pdf/conditions_of_confinement_report.PDF) See also news coverage, including: Mark Segraves and Andrea Swalec, "D.C. Jail Inmate Dies Amid Concerns About Heat Inside," *NBC Washington* (July 15, 2016): <https://www.nbcwashington.com/news/local/DC-Jail-Inmate-Dies-Amid-Concerns-About-Heat-Inside-387020911.html>; Scott MacFarlane, "D.C. Inmates Moved After Rain Damages Jail," *NBC Washington* (February 25, 2016): <https://www.nbcwashington.com/news/local/Heavy-Rain-Leaks-Damage-DC-Jail-Inmates-Moved-369933401.html>
- 16 Washington Lawyers Committee, *D.C. Prisoners: Conditions of Confinement in the District of Columbia* (2015): [http://www.washlaw.org/pdf/conditions\\_of\\_confinement\\_report.PDF](http://www.washlaw.org/pdf/conditions_of_confinement_report.PDF) See also news coverage, including: Mark Segraves and Andrea Swalec, "D.C. Jail Inmate Dies Amid Concerns About Heat Inside," *NBC Washington* (July 15, 2016): <https://www.nbcwashington.com/news/local/DC-Jail-Inmate-Dies-Amid-Concerns-About-Heat-Inside-387020911.html>; Scott MacFarlane, "D.C. Inmates Moved After Rain Damages Jail," *NBC Washington* (February 25, 2016): <https://www.nbcwashington.com/news/local/Heavy-Rain-Leaks-Damage-DC-Jail-Inmates-Moved-369933401.html>
- 17 D.C. Law 21-123 Neighborhood Engagement Achieves Results Amendment Act (2016) available at <https://code.dccouncil.us/dc/council/laws/21-125.html>
- 18 The Office of Neighborhood Safety and Engagement was created by the NEAR Act and modeled after a program that led to a 76 percent reduction in gun-related homicides over a seven year period in Richmond, CA. (<https://www.thenation.com/article/how-one-california-city-began-bringing-its-murder-rate-down-without-cops/>)
- 19 Annual Report Metropolitan Police Department (2017); See also District Crime at a Glance available at <https://mpdc.dc.gov/page/district-crime-data-glance>
- 20 Austermuhle, Martin, D.C. Police Are Not Properly Collecting Data on Stop-and-Frisks, Group Says, Mar. 29, 2018, <https://wamu.org/story/18/03/29/d-c-police-not-properly-collecting-data-stop-frisks-groups-say>.
- 21 Spencer S. Hsu & Peter Hermann, *U.S. to Push D.C. Gun Cases Into Federal Court as Washington Struggles With A 40 Percent Murder Spike*, WASH. POST, FEB. 5, 2019, [https://www.washingtonpost.com/local/legal-issues/us-to-prosecute-districts-armed-ex-convicts-in-federal-court-in-surge-against-gun-violence/2019/02/05/1f518926-2363-11e9-90cd-dedb0c92dc17\\_story.html?utm\\_term=.5ce250ecc618](https://www.washingtonpost.com/local/legal-issues/us-to-prosecute-districts-armed-ex-convicts-in-federal-court-in-surge-against-gun-violence/2019/02/05/1f518926-2363-11e9-90cd-dedb0c92dc17_story.html?utm_term=.5ce250ecc618)
- 22 A D.C. Code felony is an offense classified as a felony in the District of Columbia's Official Code.
- 23 Before 1997, all people convicted of D.C. Code violations and sentenced to serve time were incarcerated under local D.C. jurisdiction. The National Capital Revitalization and Self-Government Improvement Act of 1997 shifted responsibility for people convicted of D.C. Code felonies to the Federal Bureau of Prisons. See Federal Bureau of Prisons, "Inmate Legal Matters" webpage: [https://www.bop.gov/inmates/custody\\_and\\_care/legal\\_matters.jsp](https://www.bop.gov/inmates/custody_and_care/legal_matters.jsp). Unless otherwise specified, this Blueprint focuses on people convicted in District of Columbia Superior Court of D.C. Code felonies who are serving their time in federal prison facilities. This Blueprint does not include people who have been convicted of federal offenses in the U.S. District Court for the District of Columbia, and are serving time in federal facilities.
- 24 Criminal Justice Coordinating Council, *Ten-Year Estimate of Justice-Involved Individuals in the District of Columbia* (September, 2018): <https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/publication/attachments/Ten-Year%20Estimate%20of%20Justice-Involved%20Individuals.pdf>
- 25 Corrections Information Council, 2017 Annual Report: <https://cic.dc.gov/sites/default/files/dc/sites/cic/publication/attachments/2017%20Annual%20Report%20REVISED%201.11.18.pdf>. Some people convicted of D.C. Code felonies who are under the jurisdiction of the federal Bureau of Prisons are held in the D.C. Central Treatment Facility under an inter-governmental agreement. Source: [https://cic.dc.gov/sites/default/files/dc/sites/cic/page\\_content/](https://cic.dc.gov/sites/default/files/dc/sites/cic/page_content/)

[attachments/CIC%20Testimony%20on%20Roundtable%20on%20DOC%202.15.17%20FINAL.pdf](#)

- 26 This number includes some people who are serving time for felonies and are under the jurisdiction of the federal Bureau of Prisons but are participating in a program run at the DCDOCs local facility, as well as some people being held from the U.S. Marshall Service in Greenbelt.
- 27 D.C. Department of Corrections Population Statistics “Average Daily Population” series. Figures represent fiscal years.
- 28 Criminal Justice Coordinating Council, *Ten-Year Estimate of Justice-Involved Individuals in the District of Columbia*, (September, 2018): <https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/publication/attachments/Ten-Year%20Estimate%20of%20Justice-Involved%20Individuals.pdf>
- 29 Criminal Justice Coordinating Council, *One-Day Estimate of Justice System-Involved Individuals within the District of Columbia* (2017): <https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/publication/attachments/One%20Day%20Count%20Justice%20Involved%20%202017%20Infographic.pdf> Note: this figure excludes individuals who have been sentenced to prison by the U.S. District Court for violating federal laws. Additionally, this is a rough estimate that is based on a combination of average daily population and one-day count figures, which are not directly comparable.
- 30 Calculated based on Criminal Justice Coordinating Council, *Ten-Year Estimate of Justice-Involved Individuals in the District of Columbia* (September, 2018): <https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/publication/attachments/Ten-Year%20Estimate%20of%20Justice-Involved%20Individuals.pdf> and Census Bureau, 2017 Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States; Prison Policy Initiative, “How America’s major urban centers compare on incarceration rates” (2019): <https://www.prisonpolicy.org/blog/2019/03/28/urban-incarceration/>
- 31 Admissions reflect the number of people entering correctional facilities in a given year, while the total population refers to the total number of people incarcerated at a given time.
- 32 National Corrections Reporting Program.
- 33 Offense breakdowns in this Blueprint are based on the most serious, or “controlling,” offense for which a person in prison is serving time. Some people in prison are serving time for multiple convictions and are categorized here only under the controlling offense types, including individuals imprisoned for a community supervision violation.
- 34 National Corrections Reporting Program.
- 35 D.C. Code § 22-4502: <https://code.dccouncil.us/dc/council/code/sections/22-4502.html>
- 36 D.C. Code § 22-4503: <https://code.dccouncil.us/dc/council/code/sections/22-4503.html>
- 37 D.C. Department of Corrections, Facts and Figures (September 2018): <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/DCDepartmentofCorrectionsFactsandFiguresSeptember2018.pdf> This figure represents fiscal year 2018 and includes people being held pretrial and people serving time for misdemeanors. It also includes some individuals held under contract with the federal government, who comprise approximately 20 percent of the population held by the DCDOC.
- 38 Figure represents fiscal year 2018.
- 39 D.C. Department of Corrections, Facts and Figures (September 2018): <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/DCDepartmentofCorrectionsFactsandFiguresSeptember2018.pdf>
- 40 D.C. Department of Corrections, PREA Report (2017): <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/General%20Counsel%20updates%20accepted%20and%20finalized%20PREA%20ANNUAL%20REPORT%202017%20%28003%29.pdf>
- 41 D.C. Department of Corrections, PREA Report (2017): <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/General%20Counsel%20updates%20accepted%20and%20finalized%20PREA%20ANNUAL%20REPORT%202017%20%28003%29.pdf>
- 42 D.C. Department of Corrections, Facts and Figures (September 2018): <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/DCDepartmentofCorrectionsFactsandFiguresSeptember2018.pdf>
- 43 Washington Lawyers Committee, *D.C. Prisoners: Conditions of Confinement in the District of Columbia* (2015): [http://www.washlaw.org/pdf/conditions\\_of\\_confinement\\_report.PDF](http://www.washlaw.org/pdf/conditions_of_confinement_report.PDF) See also news coverage, including: Mark Segraves and Andrea Swalec, “D.C. Jail Inmate Dies Amid Concerns About Heat Inside,” *NBC Washington* (July 15, 2016): <https://www.nbcwashington.com/news/local/DC-Jail-Inmate-Dies-Amid-Concerns-About-Heat-Inside-387020911.html>; Scott MacFarlane, “D.C. Inmates Moved After Rain Damages Jail,” *NBC Washington* (February 25, 2016): <https://www.nbcwashington.com/news/local/Heavy-Rain-Leaks-Damage-DC-Jail-Inmates-Moved-369933401.html>
- 44 National Corrections Reporting Program
- 45 Corrections Information Council, 2017 Annual Report: <https://cic.dc.gov/sites/default/files/dc/sites/cic/publication/attachments/2017%20Annual%20Report%20REVISED%201.11.18.pdf>. Some people convicted of D.C. Code felonies who are under the jurisdiction of the federal Bureau of Prisons are held in the D.C. Central Treatment Facility under an inter-governmental agreement. See: Testimony of Michelle Bonner, Executive Director, Corrections Information Council (February 15, 2018): [https://cic.dc.gov/sites/default/files/dc/sites/cic/page\\_content/attachments/CIC%20Testimony%20on%20Roundtable%20on%20DOC%202.15.17%20FINAL.pdf](https://cic.dc.gov/sites/default/files/dc/sites/cic/page_content/attachments/CIC%20Testimony%20on%20Roundtable%20on%20DOC%202.15.17%20FINAL.pdf)
- 46 Washington Lawyers Committee, *D.C. Women in Prison: Continuing Problems and Recommendations for Change* (2016): [http://www.washlaw.org/pdf/dc\\_women\\_in\\_prison\\_report.PDF](http://www.washlaw.org/pdf/dc_women_in_prison_report.PDF). See also [https://www.washingtonpost.com/local/dc-politics/incarcerated-in-federal-prisons-far-from-home-de-prisoners-face-extra-barriers-to-rehabilitation/2017/12/13/b57d42aa-ca5e-11e7-aa96-54417592cf72\\_story.html?utm\\_term=.7558d011b770](https://www.washingtonpost.com/local/dc-politics/incarcerated-in-federal-prisons-far-from-home-de-prisoners-face-extra-barriers-to-rehabilitation/2017/12/13/b57d42aa-ca5e-11e7-aa96-54417592cf72_story.html?utm_term=.7558d011b770)
- 47 Urban Institute, *A Matter of Time: The Causes and Consequences of Rising Time Served in America’s Prisons* (2017): <https://apps.urban.org/features/long-prison-terms/trends.html>
- 48 Urban Institute, *The Housing Landscape for Returning Prisoners in the District of Columbia* (2006): <https://www.urban.org/sites/default/files/publication/46396/411433-The-Housing-Landscape-for-Returning-Prisoners-in-the-District.PDF>
- 49 Urban Institute analysis of: Census Bureau, 2014 Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States; National Corrections Reporting Program.
- 50 D.C. Department of Corrections, Facts and Figures (September 2018): <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/DCDepartmentofCorrectionsFactsandFiguresSeptember2018.pdf>
- 51 National Corrections Reporting Program
- 52 Washington Lawyers Committee, *D.C. Women in Prison: Continuing Problems and Recommendations for Change* (2016): [http://www.washlaw.org/pdf/dc\\_women\\_in\\_prison\\_report.PDF](http://www.washlaw.org/pdf/dc_women_in_prison_report.PDF).
- 53 National Corrections Reporting Program.
- 54 American Civil Liberties Union, *At America’s Expense: The Mass Incarceration of the Elderly, 2012*; *Human Rights Watch, Old Behind Bar* (2012).
- 55 National Corrections Reporting Program.

- 56 District of Columbia FY 2017 budget: [https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/FY%202017%20DC%20CAFR\\_2.pdf](https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/FY%202017%20DC%20CAFR_2.pdf).
- 57 Congressional Budget Office Cost Estimate: H.R. 5682 (August 2018): <https://www.cbo.gov/system/files/2018-08/hr5682.pdf>.
- 58 Danielle Sered, *Accounting for Violence: How to Increase Safety and Break Our Failed Reliance on Mass Incarceration* (New York: Vera Institute of Justice, 2017), [https://storage.googleapis.com/vera-web-assets/downloads/Publications/accounting-for-violence/legacy\\_downloads/accounting-for-violence.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/accounting-for-violence/legacy_downloads/accounting-for-violence.pdf).
- 59 D.C. Law 21-123 Neighborhood Engagement Achieves Results Amendment Act (2016) available at <https://code.dccouncil.us/dc/council/laws/21-125.html>
- 60 However, its implementation has veered away from the model and thus far, its success has been difficult to track for lack of measurable metrics. <https://onse.dc.gov/>.
- 61 <https://oag.dc.gov/blog/cure-streets-oags-violence-interruption-program>
- 62 The Office of Neighborhood Safety and Engagement was created by the NEAR Act and modeled after a program that led to a 76 percent reduction in gun-related homicides over a seven year period in Richmond, CA. (<https://www.thenation.com/article/how-one-california-city-began-bringing-its-murder-rate-down-without-cops/>)
- 63 D.C. Law 21-123 Neighborhood Engagement Achieves Results Amendment Act (2016) available at <https://code.dccouncil.us/dc/council/laws/21-125.html>
- 64 <https://code.dccouncil.us/dc/council/laws/21-125.html>
- 65 Annual Report Metropolitan Police Department (2017); *See also* District Crime at a Glance available at <https://mpdc.dc.gov/page/district-crime-data-glance>
- 66 Austermuhle, Martin, "D.C. Police Are Not Properly Collecting Data on Stop-and-Frisks, Group Says," Mar. 29, 2018, <https://wamu.org/story/18/03/29/d-c-police-not-properly-collecting-data-stop-frisks-groups-say>.
- 67 Mark S. Umbreit, Robert B. Coates, & Betty Vos, "Victim-Offender Mediation: Three Decades of Practice and Research," *Conflict Resolution Quarterly*, 22, nos. 1-2 (2004), 279-303 and National Council on Crime & Delinquency, *Scaling Restorative Community Conferencing Through a Pay for Success Model: A Feasibility Assessment Report* (Oakland, CA: NCCD, 2015), 9.
- 68 D.C. Law 21-123 Neighborhood Engagement Achieves Results Amendment Act (2016) available at <https://code.dccouncil.us/dc/council/laws/21-125.html>
- 69 <https://www.leadbureau.org/>
- 70 District of Columbia, Pre Arrest Diversion Pilot Program, [https://dhs.dc.gov/sites/default/files/dc/sites/dhs/page\\_content/attachments/DC%20Pre-Arrest%20Divers%20Pilot%20Program\\_Updated%20v3.pdf](https://dhs.dc.gov/sites/default/files/dc/sites/dhs/page_content/attachments/DC%20Pre-Arrest%20Divers%20Pilot%20Program_Updated%20v3.pdf).
- 71 Henry J. Steadman and Michelle Naples, "Assessing the Effectiveness of Jail Diversion Programs for Persons with Serious Mental Illness and Co-Occurring Substances Use Disorders," *Behavioral Sciences & the Law* 23, no. 2 (March/April 2005): 163-170, <https://doi.org/10.1002/bsl.640>.
- 72 Nahama Broner, Alexander Cowell, and Randolph Dupont, "The Cost-Effectiveness of Criminal Justice Diversion Programs for People with Serious Mental Illness Co-Occurring with Substance Abuse," *Journal of Contemporary Criminal Justice* 20, no. 3 (2004): 292-315.
- 73 Zarkin, Gary A., et. al, Lifetime Benefits and Costs of Diverting Substance-Abusing Offenders From State Prison (2012), <http://cad.sagepub.com/content/early/2012/10/15/0011128712461904.abstract>.
- 74 Community Courts and Problem Solving Courts, District of Columbia Courts, <https://www.dccourts.gov/services/criminal-matters/community-court-and-problem-solving-courts>
- 75 Superior Court Drug Intervention Program, Pretrial Service Agency for the District of Columbia, <https://www.psa.gov/sites/default/files/Brochure%20-%20Drug%20Court%207.7.17%20-%20Ready%20for%20Print.pdf>
- 76 D.C. Code § 23-1321
- 77 Mark S. Umbreit, Robert B. Coates, and Betty Vos, "Victim-Offender Mediation: Three Decades of Practice and Research," *Conflict Resolution Quarterly*, 22, nos. 1-2 (2004), 279-303 and National Council on Crime & Delinquency, *Scaling Restorative Community Conferencing Through a Pay for Success Model: A Feasibility Assessment Report* (Oakland, CA: NCCD, 2015), 9.
- 78 Research gate, [https://www.researchgate.net/publication/271659858\\_Short-term\\_effects\\_of\\_restorative\\_justice\\_conferences\\_on\\_post-traumatic\\_stress\\_symptoms\\_among\\_robbery\\_and\\_burglary\\_victims\\_a\\_randomized\\_controlled\\_trial](https://www.researchgate.net/publication/271659858_Short-term_effects_of_restorative_justice_conferences_on_post-traumatic_stress_symptoms_among_robbery_and_burglary_victims_a_randomized_controlled_trial).
- 79 *See* Irvin Nathan, *Let D.C.'S Elected Attorney General Prosecute D.C. Crimes*, WASH. POST, FEB. 12, 2016, [https://www.washingtonpost.com/opinions/let-dcs-elected-attorney-general-prosecute-dc-crimes/2016/02/12/91ded204-c91c-11e5-88ff-e2d1b4289c2f\\_story.html?noredirect=on&utm\\_term=.dcb174aafb49](https://www.washingtonpost.com/opinions/let-dcs-elected-attorney-general-prosecute-dc-crimes/2016/02/12/91ded204-c91c-11e5-88ff-e2d1b4289c2f_story.html?noredirect=on&utm_term=.dcb174aafb49).
- 80 Spencer S. Hsu & Peter Hermann, *U.S. to Push D.C. Gun Cases Into Federal Court as Washington Struggles With A 40 Percent Murder Spike*, WASH. POST, FEB. 5, 2019, [https://www.washingtonpost.com/local/legal-issues/us-to-prosecute-districts-armed-ex-convicts-in-federal-court-in-surge-against-gun-violence/2019/02/05/1f518926-2363-11e9-90cd-ded0c922dc17\\_story.html?utm\\_term=.5ce250ecc618](https://www.washingtonpost.com/local/legal-issues/us-to-prosecute-districts-armed-ex-convicts-in-federal-court-in-surge-against-gun-violence/2019/02/05/1f518926-2363-11e9-90cd-ded0c922dc17_story.html?utm_term=.5ce250ecc618).
- 81 A Proposed Resolution, Council of the District of Columbia, <http://lims.dccouncil.us/Download/42105/PR23-0194-Introduction.pdf>.
- 82 The D.C. Council is currently considering modifications to the Incarceration Reduction Amendment Act of 2016 ("IRAA") that could significantly reduce sentences for young offenders. Bill 23-0127, the "Second Look Amendment Act of 2019" raises the age for eligible individuals who committed an offense before the age of 25 to petition D.C. Superior Court to have their sentences reviewed. Raising the age is in line with what science has shown to be true: Young adults and adolescents are distinctly different from mature adults in cognitive development.
- 83 PL 105-33, August 5, 1997, 111 Stat 251
- 84 People sentenced under the D.C. Code are only parole-eligible if the offense was committed prior to August 5, 2000. Following the passage of the Sentencing Act of 2000, a determinate sentencing scheme was instituted and parole eligibility abolished. There are about 1,280 people remaining in the Bureau of Prisons serving indeterminate sentences that could benefit from a parole grant. There is also 3,597 people currently on parole or supervised released that are subject to the power of the USPC.
- 85 D.C. Code § 24-131 (2016)
- 86 [https://www.washlaw.org/pdf/2018\\_03\\_16\\_why\\_we\\_need\\_a\\_dc\\_board\\_of\\_parole.PDF](https://www.washlaw.org/pdf/2018_03_16_why_we_need_a_dc_board_of_parole.PDF)
- 87 Fornaci, Phillip, et al. Restoring Control of Parole to D.C., March 16, 2018 available at [https://www.washlaw.org/pdf/2018\\_03\\_16\\_why\\_we\\_need\\_a\\_dc\\_board\\_of\\_parole.PDF](https://www.washlaw.org/pdf/2018_03_16_why_we_need_a_dc_board_of_parole.PDF)
- 88 In fact, in January 2019, the Bowser administration granted \$75,000 for the Justice Police Institute to complete a study on reestablishing local control of parole by creating a District of Columbia parole board. <https://ovsjg.dc.gov/release/bowser-administration-awards-grants-study-building-new-jail-and-creating-dc-parole-board>.
- 89 For people convicted of felonies after August 5, 2000, current law requires a term of supervision following release. If a person was incarcerated for 25 years or more, that person would be required to serve at least five years under supervision. If the time served in prison

was less than 25 years, they are required to serve three years under supervision.

- 90 Additionally, sentences for technical violations rendered by the USPC are much harsher than the sentences issued by the former D.C. Board of Parole. Except in rare cases, the D.C. Board of Parole issued sentences for technical violations of no more than nine months, and frequently did not order incarceration at all. In contrast, the USPC regularly imposes minimum sentences of 12-16 months for most prisoners who come before them with technical violations. In cases where a parolee had committed a new offense while on parole, the D.C. board's practice was to distinguish between misdemeanor and felony offenses in setting revocation sentences. However, the USPC issues lengthy terms for revocations even following a short misdemeanor sentence on minor charges. [https://www.washlaw.org/pdf/2018\\_03\\_16\\_why\\_we\\_need\\_a\\_dc\\_board\\_of\\_parole.PDF](https://www.washlaw.org/pdf/2018_03_16_why_we_need_a_dc_board_of_parole.PDF)
- 91 Of the 1,240 people held in the local D.C. jail, 372 are detained on parole holds, meaning they have not yet been granted a revocation hearing and convicted of any supervision violation.
- 92 Since implementing a 90-day cap on incarceration for first-time technical violations, Louisiana has seen an average length of incarceration reduction by 281 days, or 9.2 months. <http://www.pewtrusts.org/~/media/Assets/2014/11/PSPPReducingIncarcerationforTechnicalViolationsinLouisiana.pdf>.
- 93 The typical range for a one-time credit is between 30 days and 120 days. [http://www.ncsl.org/documents/cj/earned\\_time\\_report.pdf](http://www.ncsl.org/documents/cj/earned_time_report.pdf)
- 94 B. Jaye Anno et al., U.S. Dep't of Justice, Nat'l Inst. of Corr., *Correctional Health Care: Addressing the Needs of Elderly, Chronically Ill, and Terminally Ill Inmates* 10 (2004), available at <http://static.nicic.gov/Library/018735.pdf>.
- 95 The two criminologists who wrote the pioneering scholarship demonstrating this fact in the 1980s are Travis Hirschi and Michael Gottfredson. Hirschi & Gottfredson, *Age and the Explanation of Crime*, 89 Am. J. Soc. 552 (1983), available at <http://troublesofyouth.pbworks.com/f/age%2Band%2Bthe%2Bexplanation%2Bof%2Bcrime%2B-%2BHirschi%2Band%2BGott.pdf>.
- 96 *At America's Expense: The Mass Incarceration of the Elderly*, The American Civil Liberties Union 20-25 (2012), available at [https://www.aclu.org/files/assets/elderlyprisonreport\\_20120613\\_1.pdf](https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf)
- 97 D.C. §2.77 & §2.78.
- 98 See, for example, Katherine B. Spencer, Amanda K. Charbonneau, and Jack Glaser, "Implicit Bias and Policing," *Social and Personality Psychology Compass* 10/1 (2016): 50-63, 10.1111/spc3.12210. Accessed from <https://gspp.berkeley.edu/assets/uploads/research/pdf/SpencerCharbonneauGlaser.Compass.2016.pdf>; Besiki Kutateladze, Vanessa Lynn, and Edward Liang, *Do Race and Ethnicity Matter in Prosecution? A Review of Empirical Studies* (New York: Vera Institute of Justice, June 2012), [https://storage.googleapis.com/vera-web-assets/downloads/Publications/do-race-and-ethnicity-matter-in-prosecution-a-review-of-empirical-studies/legacy\\_downloads/race-and-ethnicity-in-prosecution-first-edition.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/do-race-and-ethnicity-matter-in-prosecution-a-review-of-empirical-studies/legacy_downloads/race-and-ethnicity-in-prosecution-first-edition.pdf); Tushar Kansal, *Racial Disparity in Sentencing: A Review of the Literature*, ed. Marc Mauer (Washington, D.C.: Sentencing Project, January 2005), <https://www.opensocietyfoundations.org/sites/default/files/disparity.pdf>; see, for example, Michael Pinard, "Collateral Consequences of Criminal Convictions: Confronting Issues of Race and Dignity," *New York University Law Review* 85, no. 2 (2010): 457-534; Lisa Stolzenberg, Stewart J. D'Alessio, and David Eitle, "Race and Cumulative Discrimination in the Prosecution of Criminal Defendants," *Race and Justice* 3, no. 4 (2013), p. 275, <http://raj.sagepub.com/content/3/4/275.abstract>.
- 99 Marc Mauer and Nazgol Ghandnoosh, *Fewer Prisoners, Less Crime: A Tale of Three States* (Washington, D.C.: Sentencing Project, 2015), <https://sentencingproject.org/wp-content/uploads/2015/11/Fewer-Prisoners-Less-Crime-A-Tale-of-Three-States.pdf>.
- 100 Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Washington, D.C.: Sentencing Project, 2016), <https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.
- 101 Doris J. James and Lauren E. Glaze, *Special Report: Mental Health Problems of Prison and Jail Inmates* (BJS, September 2006), <https://www.bjs.gov/content/pub/pdf/mhppji.pdf>; Jennifer Bronson and Marcus Berzofsky, *Special Report: Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12* (BJS, June 2017), <https://www.bjs.gov/content/pub/pdf/imhprpji1112.pdf>; Jennifer Bronson, Laura M. Maruschak, and Marcus Berzofsky, *Special Report: Disabilities Among Prison and Jail Inmates, 2011-12* (BJS, December 2015), <https://www.bjs.gov/content/pub/pdf/dpji1112.pdf>.
- 102 Doris J. James and Lauren E. Glaze, *Special Report: Mental Health Problems of Prison and Jail Inmates* (BJS, September 2006), <https://www.bjs.gov/content/pub/pdf/mhppji.pdf>; Jennifer Bronson and Marcus Berzofsky, *Special Report: Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12* (BJS, June 2017), <https://www.bjs.gov/content/pub/pdf/imhprpji1112.pdf>.
- 103 Linda A. Teplin, *Keeping the Peace: Police Discretion and Mentally Ill Persons* (National Institute of Justice Journal, July 2000): 12, <https://www.ncjrs.gov/pdffiles1/jr000244c.pdf>.
- 104 Stanford Justice Advocacy Project, *The Prevalence and Severity of Mental Illness Among California Prisoners on the Rise* (2017), <https://law.stanford.edu/publications/the-prevalence-and-severity-of-mental-illness-among-california-prisoners-on-the-rise/>.
- 105 Stanford Justice Advocacy Project, *The Prevalence and Severity of Mental Illness Among California Prisoners on the Rise* (2017), <https://law.stanford.edu/publications/the-prevalence-and-severity-of-mental-illness-among-california-prisoners-on-the-rise/>.
- 106 Doris J. James and Lauren E. Glaze, *Special Report: Mental Health Problems of Prison and Jail Inmates* (BJS, September 2006), <https://www.bjs.gov/content/pub/pdf/mhppji.pdf>; Jennifer Bronson and Marcus Berzofsky, *Special Report: Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12* (BJS, June 2017), <https://www.bjs.gov/content/pub/pdf/imhprpji1112.pdf>.
- 107 Doris J. James and Lauren E. Glaze, *Special Report: Mental Health Problems of Prison and Jail Inmates* (BJS, September 2006), <https://www.bjs.gov/content/pub/pdf/mhppji.pdf>.
- 108 John Buntin, "Miami's Model for Decriminalizing Mental Illness in America," *Governing* (August 2015), <http://www.governing.com/topics/public-justice-safety/gov-miami-mental-health-jail.html>; Michael T. Compton, Roger Bakeman, Beth Broussard, Dana Hankerson-Dyson, Letheshia Husbands, Shaily Krishan, Tarianna Stewart-Hutto, Barbara D'Orio, Janet R. Oliva, Nancy J. Thompson, and Amy Watson, "The Police-Based Crisis Intervention Team (CIT) Model: II. Effects on Level of Force and Resolution, Referral, and Arrest," *Psychiatric Services* 65, no. 4 (2014), <https://doi.org/10.1176/appi.ps.201300108>; see also, Michael T. Compton, Masuma Bahora, Amy C. Watson, and Janet R. Oliva, "A Comprehensive Review of Extant Research on Crisis Intervention Team (CIT) Programs," *Journal of American Academy of Psychiatry Law* 36, no. 1 (2008).
- 109 Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: [Jackson, Tenn.]: New Press; Distributed by Perseus Distribution, 2010. Print.







